

ESTTA Tracking number: **ESTTA568649**Filing date: **11/01/2013**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	CUCINA & AMORE INC.		
Entity	Corporation	Citizenship	California
Address	1941 BENTON LANE NOVATO, CA 94945 UNITED STATES		

Attorney information	JungJin Lee Lee, Lee & Associates, P.C. 2531 Jackson Rd. Ste 234 Ann Arbor, MI 48103 UNITED STATES jj@llapc.com Phone:866-400-2507
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Registration Subject to Cancellation

Registration No	3920581	Registration date	02/15/2011
Registrant	Huxtable's Kitchen, Inc. 2100 East 49th Street Vernon, CA 90058 GERMANY		

Goods/Services Subject to Cancellation

Class 029. First Use: 2009/10/02 First Use In Commerce: 2009/10/02 All goods and services in the class are cancelled, namely: Prepared meals, entrees, prepackaged dinners, appetizers and side dishes consisting primarily of meat, fish, poultry, vegetables, potatoes, and cheeses; soup; soup mixes
Class 030. First Use: 2009/10/02 First Use In Commerce: 2009/10/02 All goods and services in the class are cancelled, namely: Prepared meals, entrees, prepackaged dinners, appetizers and side dishes consisting of pasta, noodles or rice; macaronisalat, pasta salad, rice salad; noodles; noodles, sauce and topping combined in unitary packages

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	85659678	Application Date	06/22/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	CUCINA & AMORE		

Design Mark	CUCINA & AMORE
Description of Mark	NONE
Goods/Services	<p>Class 029. First use: First Use: 2007/02/01 First Use In Commerce: 2007/08/15 Artichoke paste; Bruschetta toppings; Canned fruits and vegetables; Canned or bottled vegetables; Cooked vegetables; Cut vegetables; Marinated VEGETABLES; Olive oil; Pickled vegetables; Preserved vegetables (in oil); Preserved, dried, cooked and grilled vegetables; Processed artichokes; Processed asparagus; Processed vegetables; Sliced vegetables; Vegetablepaste; Vegetable puree; Vegetable-basedspreads; Vegetables in vinegar</p> <p>Class 030. First use: First Use: 2007/02/01 First Use In Commerce: 2007/08/15 Artichoke sauce; Condiment, namely, pepper sauce; Cookies and crackers; Dried pasta; Gluten-free pasta; Panettone; Pasta; Pasta sauce; Pesto sauce; Rice; Salsa; Vinegar; Wine vinegar</p>
Attachments	85659678#TMSN.jpeg(bytes) CUCINADAMORE.CANCELLATIONv.2.pdf(267832 bytes)

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/jjl/
Name	JungJin Lee
Date	11/01/2013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Cucina & Amore Inc.)	
Petitioner,)	Cancellation No. _____
)	In the Matter of
v.)	Registration No. 3920581
)	Filed: July 20, 2009
Huxtable's Kitchen, Inc.)	Mark: CUCINA D'AMORE
Respondent.)	Published: May 25, 2010
)	Registered: February 15, 2011

PETITION FOR CANCELLATION

Petitioner, Cucina & Amore Inc. (Petitioner), a California Corporation, having its principal place of business at 1941 Benton Lane Novato California 94945, believes it will be damaged by Registration No. 3920581 (Registration) and hereby Petitions to cancel said Registration. The Registration was filed by Respondent, Huxtable's Kitchen, Inc. (Respondent), on July 20, 2009, for the mark CUCINA D'AMORE in International Classes 029 for *Prepared meals, entrees, prepackaged dinners, appetizers and side dishes consisting primarily of meat, fish, poultry, vegetables, potatoes, and cheeses; soup; soup mixes* and 030 for *Prepared meals, entrees, prepackaged dinners, appetizers and side dishes consisting of pasta, noodles or rice; macaroni salad, pasta salad, rice salad; noodles; noodles, sauce and topping combined in unitary packages*, and claimed first use as early as October 02, 2009.

As grounds for this Petition, it is alleged that:

1. At least as early as August 15, 2007, Petitioner began using the mark CUCINA & AMORE for *Artichoke paste; Bruschetta toppings; Canned fruits and vegetables; Canned or bottled vegetables; Cooked vegetables; Cut vegetables; Marinated VEGETABLES; Olive oil; Pickled vegetables; Preserved vegetables (in oil); Preserved, dried, cooked and grilled vegetables; Processed artichokes; Processed asparagus; Processed vegetables; Sliced vegetables; Vegetable paste; Vegetable puree; Vegetable-based spreads; Vegetables in vinegar; Artichoke sauce; Condiment, namely, pepper sauce; Cookies and crackers; Dried pasta; Gluten-free pasta; Panettone; Pasta; Pasta sauce; Pesto sauce; Rice; Salsa; Vinegar; Wine vinegar.*
2. Petitioner applied for a registered federal trademark for CUCINA & AMORE, serial number 85659678, for *Artichoke paste; Bruschetta toppings; Canned fruits and vegetables; Canned or bottled vegetables; Cooked vegetables; Cut vegetables; Marinated VEGETABLES; Olive oil; Pickled vegetables; Preserved vegetables (in oil); Preserved, dried, cooked and grilled vegetables; Processed artichokes; Processed asparagus; Processed vegetables; Sliced vegetables; Vegetable paste; Vegetable puree; Vegetable-based spreads; Vegetables in vinegar; Artichoke sauce; Condiment, namely, pepper sauce; Cookies and crackers; Dried pasta; Gluten-free pasta; Panettone; Pasta; Pasta sauce; Pesto sauce; Rice; Salsa; Vinegar; Wine vinegar* on June 22, 2012.
3. Petitioner received an office action on October 11th, 2012, stating that the application was being denied for the likelihood of confusion with the Respondent's registration CUCINA D'AMORE for *Prepared meals, entrees, prepackaged dinners, appetizers and side dishes consisting primarily of meat, fish, poultry, vegetables, potatoes, and cheeses; soup; soup mixes; Prepared meals, entrees, prepackaged dinners, appetizers and side dishes consisting of pasta, noodles or rice; macaroni salad, pasta salad, rice salad; noodles; noodles, sauce and topping combined in unitary packages*, Registration No. 3920581, which was filed on July 20, 2009, and registered on February 15, 2011.

4. The likelihood of confusion refusal was maintained in the May 02, 2013 office action.
5. Respondent's alleged date of first use, October 02, 2009, is over two years after Petitioner's first date of use of August 15, 2007.
6. The goods for which Respondent has registered the CUCINA D'AMORE mark and the goods for which of Petitioner has applied to register the CUCINA & AMORE are the same or closely related.
7. The goods for which Respondent has registered the CUCINA D'AMORE mark and the goods for which of Petitioner has applied to register the CUCINA & AMORE mark are likely to be sold through the same or otherwise overlapping channels of trade.
8. Petitioner's CUCINA & AMORE mark and Respondent's CUCINA D'AMORE mark are similar in appearance, sound and commercial impression.
9. On information and belief, Respondent's use and registration of CUCINA D'AMORE in connection with the above-noted goods in Classes 029 and 030 is likely to cause confusion, mistake or deception by having the public erroneously assume or believe that the goods emanate from Petitioner, or that they are endorsed, licensed or sponsored by, or in some other way associated or connected with Petition, in view of Petitioner's prior use of the CUCINA & AMORE mark, all to Petition's irreparable damage.
10. For the reasons set for in ¶¶ 1-9, Petition believes and asserts that it will be damaged by the registration of the mark in Registration No. 3920581 CUCINA D'AMORE. Accordingly, Petition prays that this Petition for Cancellation be granted and that Registration No. 3920581 - CUCINA D'AMORE mark for the goods set forth in Registration No. 3920581 be canceled.

The fee of \$600 is enclosed.

Petitioner hereby appoints the law firm of Lee, Lee & Associates, P.C., and its members, all attorneys licensed to practice in Michigan, to act as attorneys for Petitioner with full power to prosecute this Cancellation and to transact all relevant business with the United States Patent and Trademark Office and to Receive all official communications in connection with this Cancellation.

Dates this 1st day of November, 2013.

Respectfully Submitted,
Cucina & Amore Inc.

By: /JungJin Lee/
JungJin Lee, Esq.
Attorney for Applicant

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I certify that the foregoing paper is being filed electronically via the Electronic System for Trademark Trials and Appeals (ESTTA).

Date: November 1st, 2013

/JungJin Lee/
JungJin Lee

CERTIFICATE OF SERVICE

I hereby certify that on November 1st, 2013, a true and correct copy of the foregoing Petition For

Cancellation was served upon:

Ms. Deborah J. Peckham
Burns & Levinson LLP
125 Summer Street
Boston MA 02110
United States
dpeckham@burnslev.com

By First Class Mail addressed to the address listed above.

November 1st, 2013

/JungJin Lee/
JungJin Lee